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AMENDED IN SENATE FEBRUARY 24, 2003
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CALIFORNIA LEGISLATURE—2003–04 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 10

Introduced by Senators Sher and Scott
(Principal coauthor: Assembly Member Daucher)
(Coauthor: Senator Alpert)

January 27, 2003

An act to amend Sections 52122, 52123, 52124, and ~~52124.5~~ 52126 of the Education Code, relating to class size.

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as amended, Sher. Class size reduction.

Existing law establishes the Class Size Reduction Program in which participating school districts are provided funding for each class in which the class size is reduced to a ratio of 20 pupils to 1 teacher in kindergarten and any of grades 1 to 3, inclusive. *Existing law allows certain small school districts to determine the average class size on a schoolsite basis rather than on an individual class basis if the ratio of pupils to teacher in any class included in the average does not exceed the 20 to 1 ratio by more than 2 pupils provided that the school certifies that such a class is taught by a certificated teacher.*

~~This bill would additionally allow a class taught by a teacher who holds either a preliminary or clear teaching credential to maintain an~~

~~annual average class size that does not exceed 22 pupils to 1 teacher, if the schoolsite annual average class size does not exceed an annual average class size ratio of 20 pupils to 1 teacher.~~

This bill would, for the 2003–04, 2004–05, and 2005–06 school years, authorize all school districts to determine average class size on a schoolsite basis in the same manner as certain small school districts if the class operating under this flexibility alternative maintains an annual average class size of 22 pupils or less, provided that the schoolsite annual average ratio does not exceed 20 pupils to 1 teacher, and certifies that the class is taught by a teacher who holds either a preliminary or clear teaching credential.

Existing law requires the Class Size Reduction Program to be implemented in accordance with a prescribed order of priority regarding grade level.

This bill would authorize any school district establishing a class size reduction program to implement the program in accordance with these existing priorities, or, for the 2003–04, 2004–05, and 2005–06 school years, to select the grade level or levels at a schoolsite to be reduced and to give priority to reducing class size in the selected grade level or levels before reducing class size in other grade levels at the schoolsite.

This bill would prohibit the Superintendent of Public Instruction from apportioning funds to individual classes operating under the flexibility alternative that exceed a ratio of 20 pupils to 1 teacher if the schoolsite average class size ratio exceeds a ratio of 20 pupils to 1 teacher.

This bill would make other technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature in enacting this*
2 *act to encourage continued participation in the Class Size*
3 *Reduction Program by providing school districts the opportunity*
4 *to make implementation decisions at the local level.*

5 SEC. 2. Section 52122 of the Education Code is amended to
6 read:

7 52122. (a) Except as otherwise provided by Section 52123,
8 a school district that maintains kindergarten or any of grades 1 to
9 3, inclusive, may apply to the Superintendent of Public Instruction
10 for an apportionment to implement a class size reduction program

in that school district in kindergarten and any of grades 1 to 3, inclusive.

(b) An application submitted pursuant to this chapter shall identify both of the following:

(1) Each class that will participate in the Class Size Reduction Program.

(2) For each class that will participate in the Class Size Reduction Program, whether that class will operate under Option One or Option Two:

(A) (i) Option One: A school district shall provide a reduced class size for all pupils in each classroom for the full regular schoolday in each grade level for which funding is claimed. For the purposes of this chapter, “full regular schoolday” means a substantial majority of the instructional minutes per day, but shall permit limited periods of time during which pupils are brought together for a particular phase of education in groups that are larger than 20 pupils per certificated teacher. It is the intent of the Legislature that those limited periods of time be kept to a minimum and that instruction in reading and mathematics not be delivered during those limited periods of time. For the purposes of this subparagraph, “class” is defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).

(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms where there are not more than 20 pupils. Except as provided in ~~subdivision (e)~~ *subdivisions (e) or (f)*, in order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter. ~~A class that is instructed by a teacher who holds either a preliminary or clear teaching credential may have an annual average class size ratio that does not exceed 22 pupils to 1 teacher, if the annual schoolsite average class size does not exceed a ratio of 20 pupils to 1 teacher. Nothing in this chapter shall be construed to~~ *This chapter does not prohibit the*

1 class size from exceeding 20 pupils on any particular day, provided
2 that the average class size for the school year does not exceed 20.

3 (B) (i) Option Two: A school district shall provide a reduced
4 class size for all pupils in each classroom for at least one-half of
5 the instructional minutes offered per day in each grade level for
6 which funding is claimed. A school district selecting this option
7 shall primarily devote those instructional minutes to the subject
8 areas of reading and mathematics. For the purposes of this
9 subparagraph, “class” is defined in the same manner as provided
10 in the regulations adopted by the Superintendent of Public
11 Instruction prior to July 1, 1996, pursuant to Sections 41376 and
12 41378 (subdivision (a) of Section 15103 of Title 5 of the California
13 Code of Regulations).

14 (ii) The purpose of the Class Size Reduction Program is to
15 ensure that children in public school in kindergarten and grades 1
16 to 3, inclusive, receive instruction in classrooms where there are
17 not more than 20 pupils. Except as provided in ~~subdivision (e)~~
18 ~~subdivisions (e) or (f)~~, in order to qualify for funding pursuant to
19 this chapter, each class in the Class Size Reduction Program shall
20 be maintained with an annual average class size of not more than
21 20 pupils for the instructional time that qualifies the class for
22 funding pursuant to this chapter. ~~A class that is instructed by a~~
23 ~~teacher who holds either a preliminary or clear teaching credential~~
24 ~~may have an annual average class size ratio that does not exceed~~
25 ~~22 pupils to 1 teacher, if the annual schoolsite average class size~~
26 ~~does not exceed a ratio of 20 pupils to 1 teacher. Nothing in this~~
27 ~~chapter shall be construed to~~ *This chapter does not* prohibit the
28 class size from exceeding 20 pupils on any particular day, provided
29 that the average class size for the school year does not exceed 20.

30 (c) A school district that intends to implement or continue to
31 implement a class size reduction program shall submit an
32 application for funding pursuant to this chapter to the
33 Superintendent of Public Instruction not later than 90 days after
34 the annual Budget Act is chaptered, unless otherwise specified in
35 regulations adopted by the State Board of Education.

36 (d) Any school district that chooses to reduce class size through
37 the use of an early-late instructional program is ineligible to use
38 Section 46205, relating to the computation of instructional time
39 for purposes of the Incentive for Longer Instructional Day and
40 Year, in any grade level for which class size reduction funding is

received pursuant to this chapter. A school district that operated under Section 46205 prior to July 1, 1996, may receive class size reduction funding pursuant to Option One in any grade level for which class size reduction funding would otherwise be received pursuant to Option One.

(e) (1) Notwithstanding any other provision of law, a school district that maintains only one school serving pupils in kindergarten and grades 1 to 3, inclusive, is eligible to receive funding under this section on behalf of the school if there are no more than two classes per participating grade level and the average class size is no more than 20 pupils in each of the classes participating in class size reduction at that schoolsite. For purposes of this subdivision, average class size may be determined by calculating the total number of pupils enrolled in all classes at all grade levels in a school that will participate in the Class Size Reduction Program divided by the total number of classes in the school. The ratio of pupils to teacher in any class included in the average shall not exceed the 20 to 1 standard by more than two pupils.

(2) As a condition of applying for funding under this subdivision, a governing board shall make a public declaration, either by adopting a resolution or by issuing a statement in a publicly noticed open meeting, that it has exhausted all possible alternatives to averaging and is unable to achieve the 20 to 1 pupil-teacher ratio in a way that is educationally acceptable.

~~(f) For purposes of this section, the schoolsite average class size is determined by calculating the total number of pupils at a schoolsite who are enrolled in classes at all grade levels that participate in the Class Size Reduction Program divided by the total number of classes at the schoolsite at all grade levels that participate in the Class Size Reduction Program.~~

(f) (1) Notwithstanding any other provision of law, for the 2003–04, 2004–05, and 2005–06 school years a school district is eligible to receive funding under this section provided each class in the Class Size Reduction Program is maintained with an annual schoolsite average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter.

(2) For purposes of this chapter, schoolsite average class size is determined by calculating the total number of pupils at a

1 *schoolsite who are enrolled in classes at all grade levels that*
2 *participate in the Class Size Reduction Program divided by the*
3 *total number of classes at the schoolsite at all grade levels that*
4 *participate in the Class Size Reduction Program. The ratio of*
5 *pupils to teacher in any class included in the average may not*
6 *exceed the 20 to 1 standard ratio by more than two pupils.*

7 *(3) Any class included in the average that exceeds the 20 to 1*
8 *standard ratio by up to two pupils shall be instructed by a teacher*
9 *who holds either a preliminary or clear teaching credential.*

10 ~~SEC. 2.—~~

11 *SEC. 3.* Section 52123 of the Education Code is amended to
12 read:

13 52123. The application of a school district for funding to
14 implement a program pursuant to this chapter shall include
15 certification by the school district of each of the following items
16 as a condition to receiving an apportionment under Section 52126:

17 (a) Certification of the number of classes in each eligible grade
18 level selected for a class size reduction apportionment pursuant to
19 this chapter.

20 (b) Certification of pupil enrollment, as of October of the
21 previous calendar year, in each class selected for class size
22 reduction pursuant to subdivision (a). Classes comprised of special
23 education pupils enrolled in special day classes on a full-time basis
24 may not be included in this program. A school district may not
25 claim funding pursuant to this chapter for a pupil who is enrolled
26 in independent study pursuant to Article 5.5 (commencing with
27 Section 51745) of Chapter 5 of Part 28 for the full regular
28 schoolday nor may a school district claim funding pursuant to this
29 chapter for a pupil for any portion of the full regular day that the
30 pupil is enrolled in independent study pursuant to that article.
31 Charter schools may not claim funding pursuant to this chapter for
32 any pupil who is enrolled in a program of home study for the full
33 regular schoolday nor may charter schools claim funding for any
34 pupil for any portion of the full regular schoolday that the pupil is
35 enrolled in a program of home study.

36 (c) (1) Except as provided in paragraph (2), certification that
37 a certificated teacher ~~or a teacher who holds either a preliminary~~
38 ~~or clear teaching credential~~ has been hired by the school district
39 and is providing direct instructional services to each class selected
40 for class size reduction pursuant to this chapter and that there is not

1 more than ~~an annual schoolsite average of 20 pupils per each 20~~
2 *pupils per class*.

3 (2) In a school district that applies for funding pursuant to
4 subdivision (e) of Section 52122, certification of all of the
5 following:

6 (A) A certificated teacher has been hired by the school district
7 and is providing direct instructional services to each class selected
8 for class size reduction pursuant to this chapter.

9 (B) The ratio of pupils to teacher does not exceed the 20 to 1
10 standard ratio by more than two pupils.

11 (3) *In a school district that applies for funding pursuant to*
12 *subdivision (f) of Section 52122, certification of all of the*
13 *following:*

14 (A) *A teacher who holds either a preliminary or clear teaching*
15 *credential has been hired by the school district and is providing*
16 *direct instructional services to each class selected for class size*
17 *reduction pursuant to this chapter.*

18 (B) *The ratio of pupils to teacher does not exceed the 20 to 1*
19 *standard ratio by more than two pupils.*

20 (4) For the purposes of this subdivision, “class” shall be
21 defined in the same manner as provided in the regulations adopted
22 by the Superintendent of Public Instruction prior to July 1, 1996,
23 pursuant to Sections 41376 and 41378 (subdivision (a) of Section
24 15103 of Title 5 of the California Code of Regulations).

25 (d) Certification that the school district has a staff development
26 program pursuant to Section 52127 and that the program has been
27 approved by the governing board of the school district.

28 (e) Certification that the school district will collect and
29 maintain any data required by the Superintendent of Public
30 Instruction that will aid in the evaluation of the Class Size
31 Reduction Program. The data shall include, but not be limited to,
32 individual test scores or other records of pupil achievement. Data
33 collected shall be protected in a manner that will not permit the
34 personal identification of any pupil or parent.

35 (f) Certification that each class reduced pursuant to this chapter
36 is housed in either a separate, self-contained classroom or that the
37 space of each class for each grade level at that schoolsite provides
38 a square footage per pupil enrolled in each class that is not less than
39 the average square footage per pupil enrolled in those grade levels
40 at that schoolsite in the 1995–96 school year.

~~SEC. 3.—~~

SEC. 4. Section 52124 of the Education Code is amended to read:

52124. (a) A school district that implements a class size reduction program pursuant to this chapter is subject to this section.

(b) A school district may establish a program to reduce class size in kindergarten and grades 1 to 3, inclusive, and that program shall be implemented at each schoolsite according to the following priorities:

(1) If only one grade level is reduced at a schoolsite, the grade level shall be grade 1.

(2) If only two grade levels are reduced at a schoolsite, the grade levels shall be grades 1 and 2.

(3) If three grade levels are reduced at a schoolsite, those grade levels shall be kindergarten and grades 1 and 2 or grades 1 to 3, inclusive. Priority shall be given to the reduction of class sizes in grades 1 and 2 before the class sizes of kindergarten or grade 3 are reduced.

(4) If four grade levels are reduced at a schoolsite, those grade levels shall be kindergarten and grades 1 to 3, inclusive. First priority shall be given to the reduction of class sizes in grades 1 and 2, second priority shall be given to the reduction of class size in kindergarten and grade 3. This paragraph shall be operative only in those fiscal years for which funds are appropriated expressly for the purposes of this paragraph.

(c) It is the intent of the Legislature to continue to permit the use of combination classes of more than one grade level to the extent that a school district is otherwise permitted to use that instructional strategy. However, any school district that uses a combination class in any class for which funding is received pursuant to this chapter may not claim funding pursuant to this chapter if the total number of pupils in the combination class, regardless of grade level, ~~causes the annual schoolsite average to exceed~~ exceeds 20 pupils per certificated teacher assigned to provide direct instructional services.

(d) The governing board of a school district shall certify to the Superintendent of Public Instruction that it has met the requirements of this section in implementing its class size reduction program. If a school district receives funding pursuant

to this chapter but has not implemented its class size reduction program for all grades and classes for which it received funding pursuant to this chapter, the Superintendent of Public Instruction shall notify the Controller and the school district in writing and the Controller shall deduct an amount equal to the amount received by the school district under this chapter for each class ~~at the schoolsite~~ that the school district failed to reduce to a class size of 20 or less pupils, ~~or 22 or less pupils for those classes that are taught by a teacher who holds a preliminary or clear teaching credential,~~ pursuant to clause (ii) of subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122 or clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, from the school district's next principal apportionment or apportionments of state funds to the district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution.

~~SEC. 4. Section 52124.5 of the Education Code is amended to read:~~

~~52124.5. (a) The Controller shall include instructions, appropriate to the enforcement of subdivision (d) of Section 52124, in the audit guide or supplement to the audit guide required by subdivision (a) of Section 14502.1. These instructions shall include, but not necessarily be limited to, procedures for determining if the annual schoolsite average class enrollment exceeds 20.4 for classes for which funding is provided to a school district pursuant to this chapter. The procedures to determine average class enrollment shall include criteria for employing sampling which will satisfy both of the following:~~

~~(1) The number of classes to be reviewed shall be based on auditor judgment, but the selection of classes shall be done randomly.~~

~~(2) For each class selected, the sample shall include at least 15 days randomly selected from all instructional days which occurred between the first day of instruction and April 15, inclusive, of the school year.~~

~~(b) (1) If the auditor concludes from the sample, based on his or her professional judgment, that the schoolsite average class size is more than 20.4 when averaged over a period from the first day of instruction to April 15 of the school year, the auditor shall conduct a more in-depth review. The in-depth review shall be either of the following:~~

1 ~~(A) A review of all instructional days for all classes for which~~
2 ~~a district has requested funding pursuant to Section 52126.~~

3 ~~(B) A randomly selected sample of all classes and instructional~~
4 ~~days of sufficient size and designed in such a manner that the class~~
5 ~~size for each class, when averaged over the period from the first~~
6 ~~day of instruction to April 15, that the auditor can conclude that the~~
7 ~~average daily class size does not exceed 20 with an error of no more~~
8 ~~than 0.4 rate at 95 percent degree of confidence.~~

9 ~~(2) The school district shall make the determination as to which~~
10 ~~of the two in-depth review methods set forth in subdivision (b)~~
11 ~~shall be used.~~

12 *(e) Notwithstanding any other provision of law, for the*
13 *2003–04, 2004–05, and 2005–06 school years, in order to best*
14 *meet the needs of its pupils, as an alternative to subdivision (b) of*
15 *this section the governing board of a school district shall do both*
16 *of the following:*

17 *(1) Select the grade level or levels to be reduced at each*
18 *schoolsite.*

19 *(2) Give priority to reducing class size in the selected grade*
20 *level or levels at a schoolsite before reducing class size in other*
21 *grade levels at that schoolsite.*

22 *SEC. 5. Section 52126 of the Education Code is amended to*
23 *read:*

24 52126. The amount of funding that each school district
25 implementing a ~~Class Size Reduction Program~~ *class size reduction*
26 *program* pursuant to this chapter is eligible to receive shall be
27 computed as follows:

28 (a) If a school district applies to participate in Option One,
29 pursuant to subparagraph (A) of paragraph (2) of subdivision (b)
30 of Section 52122, the Superintendent of Public Instruction shall
31 apportion to the applicant school district an amount equal to eight
32 hundred dollars (\$800) for each pupil actually enrolled in the
33 classes in which the school district implements the program,
34 except that the maximum number of pupils for which a school
35 district may claim funding for any class shall not exceed 20. The
36 number of pupils claimed pursuant to this subdivision shall be
37 pupils actually enrolled in classes participating in the Class Size
38 Reduction Program and shall not be based on the average size of
39 the classes for any grade levels for which funding is claimed.

(b) If a school district applies to participate in Option Two, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to four hundred dollars (\$400) per pupil actually enrolled in the classes in which the school district implements the program, except that the number of pupils in any class for which a school district may claim funding for the instructional minutes offered shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

~~(c) (1) If a school district applies to participate in Option One, pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to six hundred fifty dollars (\$650) for each pupil actually enrolled in the classes in which the school district implements the program and at least one of the following conditions exists:~~

~~(A) The requirements of subdivision (c) of Section 52122 have been satisfied, except for the requirements of either paragraph (1) or (2), of that subdivision, or both.~~

~~(B) The pupil enrolls in the school district after February 16, 1998.~~

~~(2) The maximum number of pupils for which a school district may claim funding for any class does not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program, and shall not be based on the average size of the classes for any grade levels for which funding is claimed.~~

~~(d) (1) If a school district applies to participate in Option 2, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant district an amount equal to three hundred twenty-five dollars (\$325) for each pupil actually enrolled in the classes in which the school district implements the program and at least one of the following conditions exists:~~

~~(A) The requirements of subdivision (c) of Section 52122 have been satisfied, except for the requirements of either paragraph (1) or (2) of that subdivision, or both.~~

~~(B) The pupil enrolls in the school district after February 16, 1998.~~

~~(2) The maximum number of pupils for which a school district may claim funding for any class shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program, and shall not be based on the average size of the classes for any grade levels for which funding is claimed.~~

~~(e)~~

(c) In a school district that applies for funding pursuant to subdivisions (e) or (f) of Section 52122, the maximum number of pupils for which funding may be claimed may not exceed the 20 to 1 standard ratio by more than two pupils per class. The Superintendent of Public Instruction may not apportion funds for individual classes that exceed 20 pupils per teacher if the annual schoolsite average class size exceeds 20 pupils.

(d) The per pupil amount set forth in subdivisions (a) and (b) shall be increased annually for inflation by the percentage change determined pursuant to subdivision (b) of Section 42238.1.

~~(f)~~

(e) Except for the advance apportionment, the Superintendent of Public Instruction shall apportion funds to a school district only after certification that its ~~Class Size Reduction Program~~ class size reduction program has been implemented for that fiscal year.

~~(g)~~

(f) The Superintendent of Public Instruction shall apportion funds for this program in the following manner:

(1) An advance apportionment shall be made following passage of the annual Budget Act. This apportionment shall be provided to all school districts that participated in the program in the prior fiscal year, and shall be limited to 25 percent of the amount computed by multiplying the appropriate per pupil stipends times the actual enrollment in each participating class in the prior fiscal year, as reported by the district pursuant to subdivision (d) of Section 52124.

(2) Each year an apportionment to all applicants shall be made following receipt of applications submitted pursuant to Section 52123, adjusted as necessary by the amount received pursuant to paragraph (1). If a school district that participated in this program in the prior fiscal year fails to submit an application, all funds

1 apportioned to that school district pursuant to paragraph (1) shall
2 be deducted from the district's next monthly principal
3 apportionment payment.

4 (3) A final adjustment to the amounts paid pursuant to
5 paragraph (2) shall be made following receipt of the actual
6 enrollment in each participating class, to be reported by each
7 school district pursuant to subdivision (d) of Section 52124.

8 ~~(h)~~

9 (g) Irrespective of the amount that a school district receives
10 pursuant to subdivision (a) on the basis of the application it makes
11 under Section 52123, that district shall not retain any funds it
12 receives for any class that does not actually meet all of the
13 requirements of the Class Size Reduction Program.

14 ~~(i)~~

15 (h) It is the intent of the Legislature that the total statewide
16 amount computed for the purposes of this chapter pursuant to this
17 section, ~~commencing with the 1997-98 fiscal year,~~ be
18 appropriated to the Superintendent of Public Instruction in the
19 annual Budget Act.

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